



PUBLIC NOTICE

Federal Communications Commission
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DA 09-227
February 11, 2009

NOTICE OF REQUEST FOR ACCESS TO DATA FILED IN FCC FORM 499A

PLEADING CYCLE ESTABLISHED

WC Docket No. 09-15

Comment Date: February 23, 2009

The United States Department of Labor, Bureau of Labor Statistics (BLS), seeks access to carrier revenue information from year 2007 data collected on FCC Form 499A (Form 499A).¹

The Commission collects revenue data on Form 499A for purposes of determining which carriers owe costs of establishing numbering administration, costs of local number portability administrators, contributions to Universal Service, and contributions to Telecommunications Relay Services.² For data collected on the form, the Commission recognizes that disaggregated, filer-specific data should be treated as confidential and should be exempt from public disclosure under 5 U.S.C. § 552(b)(4).³

In general, the Commission may share information it has collected with another government agency.⁴ Although the Commission's regulations provide that proprietary and commercially sensitive information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act (FOIA) and implementing regulations,⁵ the Commission may disclose to other federal agencies records that have been submitted to the Commission in confidence upon another agency's request.⁶

¹ See Letter to Dana Shaffer, Chief, WCB, from David M. Friedman, Vice Commissioner, WC Docket No. 09-15 (filed February 11, 2009) (*BLS Letter*).

² Instructions to Telecommunications Reporting Worksheet, FCC Revised Form 499-A, <http://www.fcc.gov/Forms/Form499-A/499a-2007.pdf>, at 1 (2008) (*Form 499-A Worksheet*).

³ See *Form 499-A Worksheet*, at line 605.

⁴ 44 U.S.C. § 3510.

⁵ 5 U.S.C. § 552; 47 C.F.R. § 0.457(d), 0.459(d).

⁶ 47 C.F.R. § 0.442(a) ("The acceptance [by the Commission] of materials in confidence under § 0.457 or § 0.459 does not provide assurance against their disclosure to other agencies."); see also 47 C.F.R. § 0.442(d).

In its request, BLS states that it is revising the Producer Price Index (PPI) for wired telecommunications carriers, which measures the monthly changes in prices received for the provision of residential and business telephone services, to incorporate changes in the North American Industry Classification System's definition for the wired industry.⁷ BLS states that the Form 499 data will augment revenue data collected as part of the 2007 Economic Census.⁸ Revenue for individual companies will allow BLS to sample proportionate to economic size. In particular, BLS seeks access to data elements in Form 499A blocks 3 and 4.⁹

BLS states that it will maintain the confidentiality of the data under the Confidential Information Protection and Statistical Efficiency Act's protection from release pursuant to FOIA requests.¹⁰ BLS states that its price index is an aggregate that represents industry-wide data and is available on its website.¹¹ According to BLS, "[n]o company-specific or region-specific data are disclosed¹² and that it will not disclose its sample sizes in the event that "potential respondents could be identified based on their relative sizes."¹³ BLS also indicates that there will be no direct use of the data in index calculation or PPI publications.¹⁴

Pursuant to the Commission's regulations, affected parties have 10 days from the date of this notice to oppose disclosure Form 499A data to the BLS.¹⁵ If the Commission receives no opposition from affected parties within 10 days of this notice, the Commission will disclose the information requested above to BLS. If disclosure is opposed, the procedures set forth in 47 C.F.R. § 0.442 shall apply. All pleadings should refer to WC Docket No. 09-15. Comments may be filed using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.¹⁶

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.¹⁷ Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable

⁷ *BLS Letter*.

⁸ *Id.*

⁹ *BLS Letter*.

¹⁰ CIPSEA is reproduced at 44 USC 3501 note.

¹¹ *Id.* (citing www.bls.gov/ppi).

¹² *Id.*

¹³ *BLS Letter*.

¹⁴ *Id.*

¹⁵ See 47 C.F.R. § 0.442(d)(1). Because the 10 days from release falls on a weekend day, we are extending the due date until Monday, February 23, 2009.

¹⁶ See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

¹⁷ Filers should follow the instructions provided on the Federal eRulemaking Portal website for submitting comments.

docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002.

-The filing hours at this location are 8:00 a.m. to 7:00 p.m.

-All hand deliveries must be held together with rubber bands or fasteners.

-Any envelopes must be disposed of before entering the building.

-Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

-U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

-All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530, (202) 418-0432 (TTY).

Parties must also send a courtesy copy of their filing to Darryl Cooper, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 6-C160, Washington, D.C. 20554. His email address is darryl.cooper@fcc.gov; his telephone number is (202) 418-7131.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure. For further information, please contact Darryl Cooper at the contact information listed above.

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